IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Civil Misc. Writ Petition No. 320 (S/B) of 2001
(Old No. 47975 of 2000)

Smt. Farida Nasir
W/o Late Sri Bishmillah Idrishi
R/o 45/2 C.Y. Chintamani Road
George Town
Allahabad ….Petitioner

Versus

Chief Engineer
Ganga Ghati/Yamuna Ghati
Irrigation Department
& others ….Respondents

Sri S.K. Posti learned counsel for the petitioner
Learned Standing Counsel for the State

Coram: Hon'ble Rajesh Tandon, J.
Hon'ble B.C. Kandpal, J.

Oral Judgment (per Hon'ble Rajesh Tandon, J.)

Heard Sri S.K. Posti learned counsel for the petitioner and learned Standing Counsel for the State.

By the present writ petition the petitioner has prayed for a writ, order of direction in the nature of Mandamus commanding and directing the respondents to release all the dues including G.P.F., family pension, insurance, gratuity and other dues of her late husband Sri Bishmillah Idrishi in her favour .

Briefly stated that Late Sri Bismillah Idrishi was the husband of the petitioner and was serving as Executive Engineer at Their Dam Khan - 22, Tehri and died while in service at P.G.I. Lucknow on 11.10.1999. He was admitted in the P.G.I. Lucknow for getting kidney transplant for which the doctor of P.G.I. Lucknow asked the petitioner to arrange Rs.

2,00,000/- (Rupees Two Lakh only) for getting kidney transplant. During the medical treatment of Late Sri Bishmillah Idrishi at P.G.I. Lucknow, the petitioner has invested a sum of Rs. 2,00 lacs on purchase of medicines, hospital fee and other related expense, out of which only Rs. 50,000/- as medical expenses has been paid to the petitioner and remaining amount of Rs. 98,583/- has not been paid to the petitioner till date. Ultimately, husband of the petitioner had died on 11.10.1999 but he expenses incurred by the petitioner have not been paid till date.

Learned counsel for the petitioner has submitted that the petitioner on 19.04.2000 approached to her respondents' authorities, regarding the payment of the amount but unfortunately, the same has not been paid to the petitioner as yet.

Further representation was submitted by the petitioner before the respondents on 21.04.2000 for the payment of the amount of Rs. 98,583/- incurred towards the treatment of her late husband, but the same has not been paid to the petitioner.

On. 23.04.2001 following order was passed by this Court:-

> *"Considering the facts and circumstances of the case, we direct the respondent to clear off all the dues payable to the petitioner according to rules within a period of three months from the date of production of certified copy of the order failing which the Chief Engineer, Irrigation Department shall appear before this Court on 07.08.2001.*

Counsel for the petitioner has submitted that after passing of the above order, on 07.08.2001, this Court has further passed the following order:-

> *"State of Uttaranchal shall deposit total sum of Rs. 3,43,000/- towards leave encashment, medial reimbursement and gratuity within ten days in this Court. They shall finalise and take steps to settle and release the G.P.F. within four weeks."*

In **A.I.R. 1997 Supreme Court Cases 1225 Sate of Punjab Vs. Mohinder Singh Chawla,** wherein the Apex Court has directed the respondent for reimbursement of entire medical expenses incurred by petitioner. The same is quote below:-

> *"It is now settled law that right to health is on integral to right to life. Government has constitutional obligation to provide the health facilities. If the Government servant has suffered an ailment which requires treatment at a specialized approved hospital and on reference whereat the Government servant had undergone such treatment therein, it is but the duty of the State of bear the expenditure incurred by the Government servant. Expenditure, thus incurred requires to be reimbursed by the State to the employee. The High Court was, therefore, right to giving direction to reimburse the expenses incurred towards room rent by the respondent during his stay in the hospital as an inpatient."*

In the light of the aforesaid judgment as well as order dated 07.08.2001 passed by this Court, the respondents are directed to comply the order by paying amount as well as other dues which are outstanding to he petitioner.

However, liberty is given to the petitioner to make a fresh representation before the respondents in this regard giving the details which he has received till date. The respondents shall pay the amount to the petitioner after adjudicating the same in accordance with the rules applicable to him within a period of tow months form the production of certified copy of the order.

Subject to the aforesaid decision, the writ petitioner is disposed of accordingly.

(B.C. Kandpal, J) **(Rajesh Tandon, J.)**

01.11.2004
Aswal